

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide Limited Government / Promote Personal Responsibility- This bill increases criminal penalties for prostitution offenses committed within 1,000 feet of certain locations.

B. EFFECT OF PROPOSED CHANGES:

Current Florida Law

Section 796.07(2), F.S., provides that it is unlawful:

- To own, establish, maintain, or operate any place, structure, building, or conveyance for the purpose of lewdness, assignation, or prostitution.
- To offer, or to offer or agree to secure, another for the purpose of prostitution or for any other lewd or indecent act.
- To receive, or to offer or agree to receive, any person into any place, structure, building, or conveyance for the purpose of prostitution, lewdness, or assignation, or to permit any person to remain there for such purpose.
- To direct, take, or transport, or to offer or agree to direct, take, or transport, any person to any place, structure, or building, or to any other person, with knowledge or reasonable cause to believe that the purpose of such directing, taking, or transporting is prostitution, lewdness, or assignation.
- To offer to commit, or to commit, or to engage in, prostitution, lewdness, or assignation.
- To solicit, induce, entice, or procure another to commit prostitution, lewdness, or assignation.
- To reside in, enter, or remain in, any place, structure, or building, or to enter or remain in any conveyance, for the purpose of prostitution, lewdness, or assignation.
- To aid, abet, or participate in any of the acts or things enumerated in this subsection.
- To purchase the services of any person engaged in prostitution.

Section 796.07(4), F.S., provides that a first offense under s. 796.07, F.S., is a 2nd degree misdemeanor¹, a second offense is a 1st degree misdemeanor², and a third or subsequent offense is a third degree felony.³

Effective of Bill

This bill amends section 796.07(4), F.S., to increase criminal penalties for prostitution offenses committed within 1,000 feet of the following:

- A child care facility as defined in s. 402.302, F.S.⁴ that is in compliance with the signage requirements of s. 893.13(1)(c), F.S.⁵

¹ Punishable by a term of imprisonment not exceeding 60 days and a fine of \$500. ss. 775.082(4)(b) and 775.083(1)(e), F.S.

² Punishable by a term of imprisonment not exceeding 1 year and a fine of \$1,000. ss. 775.082(4)(a) and 775.083(1)(d), F.S.

³ Punishable by a term of imprisonment not exceeding 5 years and a fine of \$5,000. ss. 775.082(3)(d) and 775.083(1)(c), F.S.

⁴ This section defines the term as follows: A child care center or child care arrangement which provides child care for more than five children unrelated to the operator and which receives a payment, fee, or grant of any of the children receiving care, wherever operated, and whether or not operated for profit. The following are not included: (a) Public schools and nonpublic schools and their integral programs, except as provided in s. 402.3025, F.S.; (b) Summer camps having children in full-time residence; (c) Summer day camps; (d) Bible schools normally conducted during vacation periods; and (e) Operators of transient establishments which provide child care services solely for the guests of their establishment or resort, provided that all child care personnel of the establishment are screened according to the level 2 screening requirements of chapter 435.

- A public or private elementary, middle, or secondary school.
- A physical place for worship where a church or religious organization regularly conducts religious services.
- A state, county, or municipal park.
- A community center.
- A publicly owned recreational facility.

Under the bill, a first prostitution offense is increased from a second degree misdemeanor to a first degree misdemeanor which is punishable by a term of imprisonment not to exceed one year⁶ and fine of \$1,000⁷, a second prostitution offense is increased from a first degree misdemeanor to a third degree felony which is punishable by a term of imprisonment not exceeding 5 years⁸ and a fine of \$5,000⁹ and, a third or subsequent prostitution offense is increased from a third degree felony to a second degree felony which is punishable by a term of imprisonment not exceeding 15 years¹⁰ and a fine of \$10,000¹¹ if committed within 1,000 feet of one of the locations listed above.

This increase in criminal penalties for prostitution offenses committed within 1,000 feet of certain locations is somewhat similar to section 893.13(1)(c), F.S., which has increased penalties for the sale, manufacture or delivery of a controlled substance or the possession with intent to sell, manufacture or deliver a controlled substance that occurs within 1,000 feet of a child care facility, school, park, community center or recreational facility.

C. SECTION DIRECTORY:

Section 1 amends section 796.07, F.S., to provide for reclassification of penalties for certain violations committed within a specified distance of certain locations.

Section 2 provides an effective date of October 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The Criminal Justice Impact Conference has not met to determine this bills prison bed impact on the Department of Corrections.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

⁵ This section requires a sign that is not less than 2 square feet in size with a word legend identifying the facility as a licensed child care facility and that is posted on the property of the child care facility in a conspicuous place where the sign is reasonably visible to the public.

⁶ Section 775.082(4)(a), F.S.

⁷ Section 775.083(1)(d), F.S.

⁸ Section 775.082(3)(d), F.S.

⁹ Section 775.083(1)(c), F.S.

¹⁰ Section 775.082(3)(c), F.S.

¹¹ Section 775.083(1)(b), F.S.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill appears to be exempt from the requirements of Article VII, Section 18 of the Florida Constitution because it is a criminal law.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On March 15, 2006, the Criminal Justice Committee passed House Bill 1087 with two amendments. The first amendment removes the term "first degree" to address both first and second degree misdemeanors. The second amendment reclassifies a first prostitution offense from a second degree misdemeanor to a first degree misdemeanor if committed within 1,000 feet of a child care facility, school, place of worship, park, community center, or recreation facility.

This analysis reflects HB 93 as amended.